

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 73263 / September 30, 2014**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-16184**

**In the Matter of**

**JORDAN PEIXOTO**

**Respondent.**

**ORDER INSTITUTING CEASE-AND-  
DESIST PROCEEDINGS PURSUANT  
TO SECTION 21C OF THE  
SECURITIES EXCHANGE  
ACT OF 1934 AND NOTICE OF  
HEARING**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Jordan Peixoto (“Peixoto” or the “Respondent”).

**II.**

After an investigation, the Division of Enforcement alleges that:

**A. SUMMARY**

1. Peixoto engaged in insider trading in connection with securities of Herbalife Ltd. (“Herbalife”).

2. In 2012, Peixoto’s friend, Filip Szymik (“Szymik”), was a close friend and the roommate of an analyst employed at Pershing Square Management, L.P. (“Pershing”). Pershing was a hedge fund headed by well-known activist investor William Ackman (“Ackman”). Prior to December 19, 2012, Szymik’s roommate (“the Analyst”) informed Szymik of an upcoming Pershing public presentation regarding its negative view of Herbalife (the “Pershing Presentation”). The Analyst also told Szymik, and Szymik understood and agreed, that any information that Szymik might learn from the Analyst concerning Pershing (including concerning the Pershing Presentation) was highly confidential and that Szymik should not trade securities on the basis of any such information.

3. Nonetheless, in breach of his duty of trust or confidence with the Analyst, Szymik informed his friend Peixoto of the essential substance and date of the upcoming Pershing Presentation, which ultimately took place on December 20, 2012. Peixoto and Szymik knew or recklessly disregarded that that information was material and nonpublic, and both understood that, once publicized, Pershing's negative view of Herbalife likely would cause Herbalife's stock price to fall.

4. On December 19, 2012, prior to any such public announcement, Peixoto purchased a number of Herbalife put options. Later that day, CNBC reported Pershing would be announcing publicly a negative view of Herbalife in a presentation the following day. Immediately following both the CNBC announcement and the Pershing Presentation the following day, Herbalife's stock price dropped considerably, falling a total of 39% by the close of trading on December 24. The market value of Peixoto's Herbalife's put options increased by approximately \$339,421 (as of December 21, 2012), and he ultimately obtained \$47,100 in actual profits from Herbalife options that he purchased prior to the CNBC report.

5. By purchasing Herbalife put options while in possession of material nonpublic information -- when he knew or had reason to know that that information had been improperly obtained -- Peixoto violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

B. RESPONDENT

6. **Peixoto**, age 30 and a resident of Toronto, is a Canadian citizen. During December 2012, Peixoto was employed as a research analyst at Deloitte in New York, New York. Peixoto has never been registered with the Commission.

C. OTHER RELEVANT INDIVIDUALS AND ENTITIES

7. **Szymik**, age 28 and a resident of New York City, is a Polish citizen. Since 2008, Szymik has worked as a consultant or senior consultant at a consulting firm. Szymik has never been registered with the Commission.

8. **The Analyst**, age 28 and a resident of New York City, is a Polish citizen. The Analyst began working for Pershing in April 2010, as an intern, and later became a research analyst. The Analyst left Pershing in September 2013.

9. **Pershing**, a limited partnership, was formed in New York, New York. Pershing was founded by William Ackman in 2004 and operates as a hedge fund. Pershing is registered with the Commission as an investment adviser. As of December 2012, it had approximately \$11 billion in assets under management.

10. **Herbalife**, a Cayman Islands corporation, is headquartered in Los Angeles, California. Herbalife's common stock is registered with the Commission pursuant to

Section 12(b) of the Exchange Act and is traded on the New York Stock Exchange. Herbalife common stock options are traded on various exchanges.

#### D. BACKGROUND

11. The Analyst began working at Pershing as an intern in April 2010 and became a research analyst and full-time employee in March 2011. Pershing's employee compliance manual states in part that "[Pershing] generates, maintains and possesses information that we view as proprietary, and it must be kept confidential by our Employees"; and that such information includes "investment positions that have not otherwise been publicly disclosed; research analyses that have not otherwise been publicly disclosed ..." Pershing's written compliance policies further state: "Employees may not disclose proprietary information to anyone outside the Firm ..." Upon becoming a full-time Pershing employee, the Analyst acknowledged to Pershing in writing that he had received, read, and understood Pershing's compliance manual and confidentiality policy.

12. As a Pershing employee, the Analyst also attended routine mandatory training seminars hosted by Pershing, which included training concerning Pershing's compliance manual, code of ethics, and insider trading.

13. Beginning in the first quarter of 2012, through at least September 2013, the Analyst was a member of Pershing's investment team assigned to research Herbalife. In that capacity, prior to December 2012, the Analyst learned that Pershing had concluded that Herbalife was operating an illicit pyramid scheme and that Pershing had acquired a substantial short position in Herbalife stock. The Analyst also knew that Pershing intended to publicly disclose its Herbalife thesis through a presentation at the Sohn Conference Foundation (the Pershing Presentation) ultimately scheduled for, and which occurred on, December 20, 2012.

14. All information concerning Pershing's Herbalife research -- including its negative view of Herbalife, its thesis that Herbalife was operating as an illicit pyramid scheme, its short position in Herbalife stock, and the timing of its disclosure of that information -- constituted material nonpublic information. As a Pershing employee, the Analyst knew that such information was nonpublic and highly confidential.

#### E. THE ANALYST'S RELATIONSHIP WITH SZYMIK

15. In 2012, the Analyst and Szymik were very close friends who had grown up together in Poland. From 2008 to April 2013, they shared an apartment as roommates in New York, New York. The Analyst and Szymik had a relationship of mutual trust or confidence in which they shared both personal and professional confidences.

16. In 2012, Szymik knew that the Analyst was a Pershing research analyst and that his work there was highly confidential.

17. Prior to December 2012, the Analyst expressly cautioned Szymik, and Szymik understood, that all of the Analyst's work at Pershing was highly confidential; that Szymik should not disclose anything regarding Pershing that he might hear or learn from the Analyst to anybody else; and that Szymik should not trade securities using any such information. Prior to December 2012, Szymik explicitly promised the Analyst that he would neither trade on any information he learned from the Analyst concerning Pershing nor disclose such information to anyone else.

18. Prior to December 19, 2012, in violation of Pershing's confidentiality policy, the Analyst disclosed material nonpublic information about his work regarding Herbalife to Szymik. The Analyst told Szymik, at the least, that he was researching Herbalife for Pershing and that Pershing had a negative view of Herbalife. The Analyst also told Szymik that Pershing would present its thesis concerning Herbalife at the Pershing Presentation, and he informed Szymik of the date of the presentation. As described in the preceding paragraph, Szymik had agreed with the Analyst to maintain the confidentiality of such information. Furthermore, given Szymik's and the Analyst's history, pattern, and practice of sharing confidences, Szymik knew or reasonably should have known that the Analyst expected Szymik to maintain the confidentiality of such information.

F. SZYMIK TIPPED PEIXOTO

19. In 2012, Szymik and Peixoto were close friends who lived within a block of each other in New York, New York and spent time socializing together nearly every weekend.

20. Peixoto knew that Szymik and the Analyst were roommates and very close friends, having known each other since childhood. Peixoto also knew that the Analyst worked at Pershing as a research analyst, and Peixoto knew or had reason to know that the Analyst's work at Pershing was highly confidential.

21. In a series of communications prior to December 19, 2012, Szymik breached his duty of trust or confidence to the Analyst by telling Peixoto, at the least, that the Analyst was researching Herbalife for Pershing; that Pershing had a negative view of Herbalife; that Pershing would publicly disclose its Herbalife thesis; and the date that disclosure would occur. At the time of those communications, both Szymik and Peixoto either knew or recklessly disregarded that the information was material and non-public.

22. When Szymik gave Peixoto the confidential information concerning the Pershing Presentation described in paragraph 21 above, Szymik knew or recklessly disregarded both that he was violating his duty of trust or confidence to the Analyst and that Peixoto intended to trade Herbalife securities based on that information. Szymik received a personal benefit by gifting confidential information to his friend, Peixoto.

23. When Peixoto received the confidential information from Szymik described in paragraph 21 above, Peixoto knew or had reason to know that Szymik provided the information to him improperly, in breach of a duty of trust or confidence.

## G. PEIXOTO TRADED HERBALIFE OPTIONS

24. On the basis of the confidential information that Szymik had provided to him, Peixoto purchased Herbalife put options in advance of the Pershing Presentation. On December 19, 2012, from approximately 12:00 p.m. to 1:23 p.m. Peixoto purchased eight out-of-the-money Herbalife put options (the “Herbalife Options”). Peixoto previously had never traded options or Herbalife securities, and he sold several other securities to fund his purchase of the Herbalife Options. Szymik did not trade in Herbalife securities.

25. At 1:58 pm EST on December 19, 2012, after Peixoto had purchased the Herbalife Options, CNBC reported that Pershing had acquired a significant short position in Herbalife stock and that Pershing would present its thesis -- that Herbalife was operating an illegal pyramid scheme -- at a conference the next day (the “CNBC Report”). At 2:04 p.m. on December 19, the New York Stock Exchange temporarily halted Herbalife stock trading due to its high volatility in the wake of the CNBC Report.

26. At the December 20, 2012 Pershing Presentation -- a three-hour, 334-slide presentation entitled “Who wants to be a Millionaire?” -- Ackman publicly accused Herbalife of operating an illegal pyramid scheme and disclosed that Pershing held a \$1 billion short position in Herbalife stock.

27. Following the CNBC Report, the price of Herbalife stock decreased approximately 12%, from \$42.50 per share at the close on December 18, 2012, to \$37.34 per share at the close on December 19, 2012.

28. After the CNBC Report and the Pershing Presentation, Herbalife’s stock price declined by approximately 39%, from \$42.50 per share at the close on December 18, 2012, to a low of \$26.06 per share at the close on December 24, 2012.

29. As of the market close on Friday, December 21, 2012, the market value of Peixoto’s Herbalife Options had increased by approximately \$339,421, and he ultimately obtained \$47,100 in actual profits from his illicit trading in Herbalife Options. Peixoto requested that his brokerage firms permit a number of his profitable Herbalife Options to expire without exercising them. However, one of Peixoto’s securities brokers refused his request, resulting in the exercise of certain of the Herbalife Options and his obtaining \$47,100 in illicit trading profits.

## H. VIOLATIONS

30. As a result of the conduct described above, Peixoto violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in connection with the purchase or sale of securities.

### III.

In view of the allegations made by the Division of Enforcement, the Commission deems it appropriate that cease-and-desist proceedings be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations; and

B. Whether, pursuant to Section 21C of the Exchange Act, Respondent should be ordered to cease and desist from committing or causing violations of and any future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, whether Respondent should be ordered to pay a civil penalty pursuant to Section 21B(a) of the Exchange Act, and whether Respondent should be ordered to pay disgorgement pursuant to Sections 21B(e) and 21C(e) of the Exchange Act.

### IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened not earlier than 30 days and not later than 60 days from service of this Order at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondent shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If Respondent fails to file the directed answer, or fails to appear at a hearing after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon Respondent personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 300 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it

is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Brent J. Fields  
Secretary